

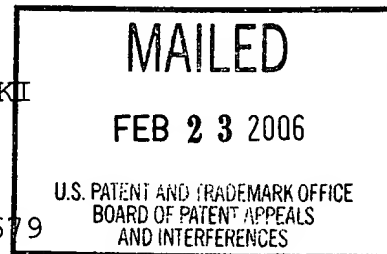
The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte AKIHISA YAMAZAKI

Appeal No. 2006-0416
Application No. 09/578,679



HEARD: FEBRUARY 8, 2006

Before THOMAS, JERRY SMITH and SAADAT, Administrative Patent Judges.

SAADAT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1-8, which are all of the claims pending in this application.

We reverse.

BACKGROUND

Appellant's invention is directed to a method and system for controlling the data received by a mobile telephone when the data is other than voice data. An understanding of the invention can

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be derived from a reading of exemplary independent claim 1, which is reproduced as follows:

1. A data communication system comprising a mobile telephone capable of communicating with a communication apparatus via a network, and an image processing unit capable of data communication with said mobile telephone and of image output;

wherein said mobile telephone includes:

a first data receiving unit for receiving data transmitted from said communication apparatus wherein the received data includes information identifying the received data as voice, text, image or moving picture data;

a data transmitting unit for transmitting the data received by said first data receiving unit to said image processing unit; and

an incoming-voice alert generating unit for issuing an incoming-call alert when data that has been received by said first data receiving unit represents voice data; and

said image processing unit includes:

a second data receiving unit for receiving data transmitted from said data transmitting unit of said mobile telephone; and

an incoming-image alert generating unit for generating an incoming-call alert when data that has been received by said second data receiving unit represents image data.

The Examiner relies on the following reference in rejecting the claims:

Mizikovsky

5,559,860

Sep. 24, 1996

Claims 1-8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Mizikovsky.

Rather than reiterate the opposing arguments, reference is made to the briefs (filed April 8, 2005 and August 29, 2005) and the answer (mailed June 30, 2005) for the respective positions of Appellant and the Examiner.

OPINION

Starting with claim 1, the focus of Appellant's argument is that the received data in Mizikovsky may only be identified based on the information identifying the calling party and not based on the information included in the data for identifying the data as voice, text, image or moving picture data (brief, pages 6-7; reply brief, page 4; oral hearing). Appellant further asserts that the alert generator 48 of Mizikovsky (Figure 5) is activated based on the priority assigned by the user to a calling party instead of the claimed generating alert when the received data represents voice or image (brief, page 8; reply brief, page 6).

In response to Appellant's arguments, the Examiner asserts that caller ID processor 44 of Mizikovsky does indeed identify the received data by identifying the calling party (answer, paragraph 10-11). The Examiner also points out that by identifying the calling party, the mobile device sends

the data to the assigned peripheral device which "inherently" teaches identifying the type of the received data (answer, page 11).

A rejection for anticipation under section 102 requires that the four corners of a single prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. See Atlas Powder Co. v. Ireco Inc., 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999); In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

After reviewing the applied prior art, we agree with Appellant that the caller ID processor of Mizikovsky, neither expressly nor inherently, teaches the claimed data receiving unit for receiving data which may be identified by its type based on the identifying information included in the data. As argued by Appellant (oral hearing), although the received data in Mizikovsky may be grouped based on the originating caller ID, the type of data cannot be distinguished when multiple types are received from the same calling number. As depicted in Figures 1 and 5 of Mizikovsky, the peripheral devices are assigned to a

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specific calling party without identifying the type of data received (col. 12, lines 51-60).

Additionally, we agree with Appellant that the alert generator 48 of Mizikovsky (Figure 1) provides distinctive ringing only based on the priority levels assigned to each calling number (col. 6, lines 25-42 and col. 12, lines 61-67). Therefore, as discussed above, since Mizikovsky does not identify the type of received data, the claimed alerts for signaling the type of data as voice or image cannot read on the alert generator of the prior art.

Therefore, the caller ID processor and its calling number determination in Mizikovsky which the Examiner characterizes as identifying the type of the received data and categories for the alert generator, is not the same as the claimed data receiving and alert-generating units. Thus, Mizikovsky cannot anticipate the claimed subject matter and the 35 U.S.C. § 102 rejection of claims 1-8 over Mizikovsky cannot be sustained.

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CONCLUSION


In view of the foregoing, the decision of the Examiner rejecting claims 1-8 under 35 U.S.C. § 102 is reversed.

REVERSED

JAMES D. THOMAS
Administrative Patent Judge

Jerry Smith
JERRY SMITH
Administrative Patent Judge

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